

**Town of Fitzwilliam
Zoning Board of Adjustment
Meeting Minutes
April 9, 2019**

Members Present: Steve Filipi, Chairman; Gretchen Wittenborg, Vice Chairman; Members: Bob Handy; Dan Sutton, Alternate seated for Cathy Davis; Charley Kenison, seated for Dan Baker, Selectmen's Representative; and Laurie Hayward, Land Use Administrative Assistant (LUAA).

Members Absent: Cathy Davis and Chad Beede.

Other's Present: Paul Grasewicz, Applicant for Spicer; & Jon Le Claire, David Spicer; Jeanne Drugg and Herb Drugg; Thomas Edstrom, Applicant, and other interested parties.

Call to Order: The Chair called the meeting to order at 7:01 PM

Public Hearing:

The Chair opened continuance of the Public Hearing, reading:

"7:00 PM. Public Hearing. Zoning Board of Adjustment Case # 19-01, David & Phyllis Spicer application for Special Exception Amended to a Variance to allow a 30' x 23'11" expansion of the dwelling at 12 Spicer Point, on Laurel Lake, in the Wetlands Protection Overlay District, Tax Map 21, Lot 19.1, in the Rural District, reference Zoning Ordinance 127-19.f. to allow a 4-foot setback where a 20-foot setback is required."

Wittenborg opened stating that she had two housekeeping matters that she wanted to discuss. She stated that the applications for the Spicer proposed addition have not come in complete as to the ownership. Wittenborg explained that the property is not, in fact, owned solely by David Spicer, he has a quarter share only. Her research shows that David and Phyllis Spicer have a half-interest as joint tenants and Patricia Spicer and Gail Connelly own the other half-interest with the two half interests held in common. The second item that she wishes to correct is regarding Planning Board minutes of February 5, 2019 which are in error regarding 10 Spicer Point. Those minutes referenced an approved Special Exception. There was no such approved Special Exception. There was no application to the Zoning Board of Adjustment and no decision regarding the tear-down and rebuild of 10 Spicer Point.

Grasewicz was asked about the circumstances surrounding the tear-down and rebuilt of 10 Spicer Point, which is the other dwelling on the lot in question. He explained that 10 Spicer Point was originally supposed to be built in the same footprint as the original house. It had to be moved back 3 feet because a boulder was in the way.

Wittenborg spoke about the Planning Board Preliminary Consultation of February 5, 2019 when Trevor Fletcher and Jon Le Claire made statements that are clearly not correct. There was no application to the Zoning Board of Adjustment for a Special Exception and there certainly was no approval for anything from the Zoning Board of Adjustment when the permit for the construction of 10 Spicer Point was given. Additionally not correct was the statement that there was no involvement of the Planning Board. In fact, there was a Preliminary Consultation October 16, 2015 with the Planning Board. After a discussion, **Wittenborg moved that the Zoning Board of Adjustment send a letter to the Planning Board advising the Planning Board that there are errors in statements made by Fletcher and Le Claire in their Preliminary Consultation with the Planning Board of February 5, 2019; Sutton seconded the motion and it was voted unanimously.**

Grasewicz was then advised that this evening there are only four members who could be seated, not the full five members and that the Applicant has the option of asking the Public Hearing be rescheduled or continuing now. Grasewicz, the Applicant, agreed to continue at this time.

The Chair asked Grasewicz whether he wished to discuss the applicability of Fitzwilliam Zoning Ordinance 127-36 B. Grasewicz simply read the five answers to five criteria for a Variance from his application:

Chair asked for input from the abutter. The property in question has only one unrelated abutter, Jeanne Drugg. Mrs. Drugg's son, Herb Drugg, asked for clarification regarding the change from Variance to Special Exception. The Chair explained that was done at the last meeting which Herb Drugg did attend. It was done to reflect the Board's understanding of the nature of the changes proposed on a non-conforming lot.

Drugg spoke about Conservation Commission concerns as formally expressed in writing by the Chairman of that Commission. He then read the wording of that document. After reading the Conservation Commission Drugg addressed the criteria for approval explaining why he feels the proposed addition of the dwelling at 12 Spicer Point is an "overuse " of this property that has multiple conditions, starting with two houses on one lot, that do not conform to the town zoning.

Wittenborg spoke regarding the multiple non-conforming conditions, explaining that an important concern for her is the issue of expanding impermeable surface, increased density, and congestion on the site. **Wittenborg moved and Sutton seconded the motion that the Zoning Board of Adjustment get legal opinion on 127-36. B.**

There was a brief discussion in which, the Chair stated that the issue is in defining what constitutes “substantial” change. He reiterated that this is a very small lot and it has two dwellings and one has been significantly increased in size.

The Chair moved that the Board seek legal advice. Wittenborg seconded and it was voted unanimously that the Zoning Board of Adjustment seek legal advice on this one because of possible conflicting language in the town ordinances.

The Chair then moved that the Public Hearing be Continued to the second Tuesday of May. Wittenborg seconded the motion and it was voted unanimously to continue the Public Hearing on Case 19-01, Spicer, to Tuesday, May 14th at 7 PM.

This ended the Public Hearing on Case 19-01 for this evening to be Continued to Tuesday, May 14, 2019 at 7:00 PM. At this point, David Spicer, Paul Grasewicz, and Jon Le Claire left the meeting.

The Chair opened the second Public Hearing reading the notice:

“7:30 PM. or thereafter Public Hearing. Zoning Board of Adjustment Case # 19-03, Thomas Edstrom application for a Special Exception to allow the construction of an accessory dwelling, located at 142 Matthews Road, Tax Map 10, Lot 74, in the Rural District, reference Zoning Ordinance 127-9. B.”

The applicants stepped forward. The Chair complemented the Edstroms on a well completed application. Thomas Edstrom spoke about the addition that is proposed explaining that the purpose is to provide an accessory dwelling to be used by family members. He explained that the addition adds a fourth bedroom and how they will connect to the already existing the four-bedroom septic system. There was a question whether they were happy with the 764 sq. ft. or would prefer something larger. The applicants and their family all indicated that they are happy with the 764 sq. ft. plan. Sutton asked about setbacks. They indicated that there was no place where the addition would even come close to any of the setbacks, being more than 300 feet from any road or boundary. Board members briefly discussed the Zoning Ordinance chapter and section 127.41.e, finding that the secondary dwelling unit does not alter the character or the principle use of the structure and meets the requirements of 127-9. The

criteria for a Special Exception were reviewed and determined as follows, the proposed accessory dwelling:

1. **Is in Harmony with the purpose and intent of this chapter.** Board Members unanimously agreed that this requirement is met.
2. **Will not be detrimental or injurious to the neighborhood in which it is to take place.** Board Members unanimously agreed that this requirement is met
3. **Is appropriate to the site in question.** Board Members unanimously agreed that this requirement is met.
4. **Complies with all applicable requirements for this chapter.** Board Members unanimously agreed that this requirement is met.
5. **With respect to dimensional requirements establishes that there exist special conditions that make the meeting of these requirements unduly burdensome.** Board Members unanimously agreed that this requirement is met.

There being no further business, the Chair moved and Vice Chair seconded, and it was voted unanimously that the meeting be adjourned at 9:01 PM. The next meeting will include the Continuance of the Public Hearing on Case 19-01, Spicer, and will be held on May 14, 2019 at 7:00 PM.

Respectfully Submitted,

Laurie Hayward
Land Use Administrative Assistant